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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MERCER COUNTY
DOCKET NO.: C-86-04

I/M/O the Rehabilitation of MIIX Insurance Company

Civil Action

**CERTIFICATION**

Richard L. White, of full age, certifies and says:

1. I have been named the Deputy Rehabilitator of MIIX Insurance Company in Rehabilitation ("MIIX Insurance"), and I am fully familiar with the facts as set forth below. The New Jersey Commissioner of Banking and Insurance ("the Commissioner" or "the Rehabilitator"), in the capacity as the Rehabilitator of MIIX Insurance and acting pursuant to N.J.S.A. 17:30C-17, appointed me Deputy Rehabilitator. I make this certification in support of the application for an order permitting the Rehabilitator to proceed with the rehabilitation plan ("the settlement plan") presented to the Court in January 2005 and to make payments to those claimants against MIIX insureds who accepted settlement offers pursuant to the settlement plan.

2. When the Commissioner took over MIIX Insurance as Rehabilitator, we examined the company's finances and determined that MIIX Insurance had a negative surplus of approximately $306,207,000 as of October 31, 2004, with assets of approximately $542,565,000, and liabilities of approximately $848,000,000. MIIX Insurance did not have sufficient assets to pay all of its existing claims and estimated future claims which will arise in the normal course of business. At the time, MIIX Insurance was incurring an average of $27 million per month in indemnity payments and defense costs. Under such circumstances, the company would have depleted its liquid assets by May 2006, well before all claims were paid.

3. The Commissioner determined that it was in the public interest to avoid placing MIIX Insurance into liquidation, if at all possible, and instructed me to craft a plan which could keep the company out of liquidation and allow for a solvent runoff of the company's remaining liabilities. The rehabilitation team created a plan that targeted for immediate settlement the meritorious claims among the approximately 2600 claims pending against MIIX insureds. The targeted cases were those cases which were identified as probable liability cases, in which an insured will likely be found liable for damages. The goal of the plan was to resolve those cases in which it was most likely that MIIX would have to make an indemnity payment, thereby reducing the company's liabilities, and leaving the company with sufficient assets to

continue to defend those cases which the company and its insureds believe are defensible.

4. On January 6, 2005, the Rehabilitator filed an application with this Court seeking an order staying all trials against MIIX insureds pending the implementation of the settlement plan. On February 24, 2005, this Court granted the Rehabilitator's application and stayed all trials against MIIX insureds until July 25, 2005.

5. On May 2, 2005, the company mailed settlement offers to 708 claimants. As of June 27, 2005, 82% of the offers were accepted (544/708). In many of those 544 cases, an insured physician had the contractual right to disapprove of a settlement, and we have obtained the insured's consent to settle. We have analyzed the response to the settlement plan and I have advised the Commissioner that the response was sufficient to allow the rehabilitation to continue. An adequate number of claimants and insureds agreed to settlement. Resolution of these cases leaves MIIX Insurance with enough assets to run off the remaining liabilities of the company.

6. If the Court approves the Plan, the total amount that the company will pay to the 544 claimants who accepted offers as of June 27, 2005, will be $185,600,000. The company will make payments to the settling claimants in early September upon receipt of executed releases.

7. One hundred and twenty three offers were rejected by claimants, or had not been accepted as of June 27, 2005. In another forty one cases, the claimant accepted the offer, but consent to settle has not been received from the insured as of June 27, 2005. We have determined that the failure of these cases to settle will not cause the plan to fail.

8. As of June 6, 2005, MIIX Insurance had total assets of approximately $396 million. The company's assets decreased by approximately $146 million since October 31, 2004. The decrease in assets is attributable primarily to the costs incurred in the ordinary course of resolving and settling claims and doing business between November and February, when there was no stay in place. Additionally, during that period, there was an increase in the volume of settlements as attorneys attempted to resolve cases because of the publicity surrounding the company's financial difficulties. In fact, we originally anticipated targeting as many as 900 cases for settlement as part of the settlement plan, but many of the meritorious cases that would have been targeted for settlement were resolved between the filing of the plan in January and implementation of the stay on February 25, 2005.

9. If the plan is approved, the company will make payments to claimants totaling approximately $185,600,000. MIIX Insurance will then have approximately $189 million in assets available to finance the costs of defending the remaining reported claims,

unreported future claims, and the on-going costs of administering the rehabilitation.

10. If the plan is approved, the company will still have 1,573 pending claims against MIIX insureds. This includes the 164 cases that were targeted for settlement and did not settle as of June 27, the 1,114 cases which the company did not target for settlement, and 295 new cases filed in 2005. We anticipate that at least another 250 new claims will be filed between 2006 and 2008. Because the plan has resolved many of the more complex claims, I anticipate that MIIX Insurance will have sufficient assets to defend these unresolved cases and pay any final judgments.

11. Under our plan, we anticipate and expect to make settlement offers to resolve a small percentage of the remaining cases as developing facts show them to be meritorious. Even though we have determined that the settlement plan was a success, MIIX Insurance is and will continue to be in a hazardous financial condition. Thus, we will continue to make settlement offers calculated pursuant to the same methods that we used to calculate offers in the settlement plan.

12. MIIX Insurance will continue to fully defend cases, including taking cases to trial where the facts warrant. Our analysis indicates that the cases which were not targeted for settlement are defensible. The plan does contemplate that in some cases that go to trial, MIIX insureds may be found liable for

damages. Because the plan has succeeded, we believe that MIIX will have sufficient assets to pay final judgments in such cases.

13. Although we have deemed the plan a success, it is still possible that it may become necessary to apply for an order of liquidation in the future. The company still has approximately 1500 claims pending against its insureds. The rehabilitation team has analyzed those cases and we believe that the company has enough assets to continue in a solvent run-off. However, it is impossible to predict the outcomes of jury trials and the value of unknown claims with any real certainty. Thus, while the company should have enough assets to handle several large adverse trial results against insureds, there is a real possibility that results could be much worse than predicted. It is also possible that individual cases could result in unforeseen large damage awards (e.g., in excess of $10 million) in one or several cases. In the event that the company does experience unanticipated adverse results going forward, it is possible that the Commissioner may have to move to convert this proceeding to a liquidation.

14. The Court should approve the plan to make settlement payments because the overall settlement plan provides several benefits to claimants, insureds, the courts, and the general public:

a. the plan leaves MIIX Insurance with sufficient funds to have a solvent run-off of its remaining liabilities;

b. the plan represents the best possible chance of providing a prompt, fair and equitable distribution of the company's limited assets to those claimants who were injured and have suffered a compensable claim;

c. it assures that meritorious claims will be compensated at an amount proportionate to the historical average value of similar claims paid in the past by MIIX Insurance; the 82% acceptance rate as of June 27 demonstrates that claimants viewed the offers as fair and equitable;

d. the plan avoids involving the state Guaranty Funds with their attendant liability limits and the significant expense to the public of involving the Guaranty Funds, which expense is ultimately passed on to the public in the form of insurance premium surcharges;

e. the plan will protect policyholders from the possibility of claimants obtaining deficiency judgments above the $300,000 Guaranty Fund cap or their policy limits and seeking to satisfy such judgments with personal or corporate assets;

f. the settlement plan will remove a significant number of cases from the system with only a minimal disruption to the judicial system.

15. Finally, if the settlement plan is approved, the public should understand that MIIX Insurance will remain in a hazardous financial condition, and in rehabilitation under the supervision of the Commissioner. We will operate the company as a run-off. This means that the company will continue to be operated by myself as Deputy Rehabilitator for the sole purpose of resolving, defending and settling ("running off") the remaining claims against MIIX insureds that have not been settled. By our analysis, MIIX will have barely enough money to run off its liabilities. The company will not write new insurance policies. It is highly unlikely that

MIIX Insurance will ever again transact the business of insurance given its present financial condition.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

R.L. White

Richard L. White
Deputy Rehabilitator

Dated: July 18, 2005